IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE FOURTEENTH DAY OF JULY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE SRI JUSTICE C.V.RAMULU

WRIT PETITION NO : 21235 of 1999

Between:

R.B.Singh, S/o. Late S.Sadhu Singh,
R/o. 10-10-116, Gajulapet,
Nizamabad.

..... PETITIONER

AND

1 The Industrial Tribunal-II,
R/o.2nd Floor, Chandravihar Building, M.J. Road, Nampally,
Hyderabad - 3.
2 The Depot Manager,
A.P.S.R.T.C. Bus Depot; Bodhan,
Nizamabad District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to it is prayed that this Hon'ble Court may be pleased call for the records from the 1st Respondent in respect of I.D.No.4/95 and issue appropriate writ or direction particularly one in the nature of WRIT OF CERTIORARI and quash the impugned award dt: 5-11-1997 passed in I.D.No.4/95 and published on 27-12-97 as arbitrary, unjust in violation of Articles-14,16 & 21 of the Constitution of India and consequently direct the 2nd Respondent corporation to restore the increments of the petitioner along with its consequential arrears in the interest of justice and fair play.

Counsel for the Petitioner: MR.V.NARASIMHA GOUD

Counsel for the Respondent No.1: GP FOR LABOUR

Counsel for the Respondent No.2: Mr. V.T.M. Prasad, Standing Counsel for APSRTC

This Court made the following

O R D E R:

This writ petition is filed by the workman being aggrieved by the award dated 05-11-1997, passed by the Industrial Tribunal-II, Hyderabad, in I.D.No.4 of 1995, wherein the Tribunal answered the dispute referred to it by the Government against the workman.

It is the case of the petitioner-workman that he was appointed on 17-02-1978 as a Conductor into the services of the APSRTC. According to him, since the date of his appointment, he has been discharging his duties to the utmost satisfaction of his superiors. While so, on 13-10-1987, when he was conducting the bus bearing No. AAZ 3924, on the route between Fakirabad and Bodhan, a check was exercised at L.K.Farm Cross Road and the checking officials found certain cash and ticket irregularities. Based on the charge memo, the petitioner was issued with a charge sheet by the authorities. Having not satisfied with the explanation submitted by him, a regular domestic enquiry was ordered. After the enquiry was concluded, based on the report of the Enquiry Officer, the Disciplinary Authority issued a show cause notice to him and thereafter passed orders, dated 25-02-1988, imposing punishment of deferment of three annual grade increments with cumulative effect and also treating the suspension period from 10-11-1987 till the date of his reinstatement as not on duty. Aggrieved by the same, the petitioner filed an appeal before the Divisional Manager and the same was dismissed. Thereafter, he filed a review petition before the Regional Manager. The Regional Manager, after taking into consideration the past conduct of the petitioner, reduced the punishment of stoppage of three annual grade increments with cumulative effect to that of two annual grade increments with cumulative effect. Assailing the said order, the Union espoused the case of the petitioner before the Assistant Commissioner of Labour, Nizamabad. The conciliation proceedings ended in failure and on submission of the failure report, the

Government referred the dispute to the Industrial Tribunal-II, Hyderabad, under Section 10(1) (d) of the Industrial Disputes Act, 1947 and the same was taken up as I.D.No.4 of 1997. However, the Industrial Tribunal did not grant any relief and the reference was answered against the petitioner. Hence, this writ petition.

Heard the learned counsel for the petitioner as well as the learned counsel for the respondents.

Since the facts are not in dispute, there is no necessity to go into all the details of the case.

It would suffice to notice the charge framed against the petitioner and the statement of the passenger recorded on the date of checking. The charge reads as under:

> *"For having failed to collect the fare and issue ticket to a passenger who boarded the bus at Fakriabad and bound for Tadbilloli Ex-stages Nos.8 to 8/7 thus violating the rule Issue and Start while you are conducting AAZ 3924 on route Mangalphad on 13-10-1987 which constitutes misconduct under Regulation No.28(vi) (a) of APSRTC, Employees (Conduct) Regulations, 1963."*

The statement of the passenger, which was attested by the Conductor at the spot, reads as under:

> *"I boarded the bus at Fakirabad and bound for Tadbilloli. I did not pay the ticket fare to the conductor nor purchased the ticket. When the bus was checked at L.K. Form Cross Road, the checking officials have collected Rs.1/- towards ticket and handed over to the conductor. This is the fact. There is no fault on the part of the conductor. The entire fault is with me only."*

From this statement it is clear that the passenger did not pay the ticket fare to the conductor-petitioner and there was no fault on the part of the petitioner. The checking official, who was examined during the domestic enquiry, also admitted that they have collected Rs.50/- as penalty for not taking ticket from the ticketless passenger. Further, during his cross-examination by the conductor, the checking official also admitted that at the time of checking, the ticketless passenger was arguing with the petitioner for paying one rupee for the short distance between the stages from 8 to 8/7. This part of the statement supports the contention of the petitioner that delay was caused in issuing the ticket, as the passenger was arguing with him and before he issued the ticket, the checking staff raided the bus. To a suggestion put by the conductor that the passenger had boarded the bus at L.K.Form Cross Road (the checking spot), the checking official had stated that when they were waiting at L.K.Form Cross Road, they saw that the bus was stopped one furlong from L.K.Form Cross Road, but they had no knowledge about this passenger boarding into the bus at that place.

However, the Disciplinary Authority as well as the Appellate Authority had not taken into consideration the statements of the checking official and the passenger, and took an entirely different view and imposed the petitioner with a punishment of stoppage of three annual grade increments with cumulative effect, which was ultimately reduced to that of stoppage of two annual grade increments by the Reviewing Authority. Further, the Industrial Tribunal has also not properly appreciated the material on record and erred in not interfering with the order of the punishment imposed on the petitioner. In this view of the matter, as the checking official as well as the passenger had given their statements in favour of the petitioner, I am of the opinion that the charge framed against the petitioner was not proved in *toto* and the punishment imposed on him is grave in nature. Therefore, the award of the Industrial Tribunal is liable to be set aside.

Accordingly, the award dated 05-11-1997, passed by the Industrial Tribunal-II, Hyderabad, in I.D.No. 4 of 1995 is set aside. The punishment imposed on the petitioner, which was modified by the Reviewing Authority, is further modified to read as under.

i. The petitioner shall be imposed with a punishment of stoppage of two increments without cumulative effect;

ii. further the period of suspension from 10-11-1987 till the date of reinstatement shall be treated as on duty and the petitioner shall be paid all wages and arrears of increments for that period.

The writ petition is accordingly allowed to the extent indicated above. No order as to costs.

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(C.V.Ramulu,J)

Date:14th July, 2005

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The Rule nisi has been made absolute as above.

Witness the Hon'ble Sri Bilal Nazki, the Acting Chief Justice on this Thursday, the Fourteenth day of July

Two Thousand and Five.

To

1 The Industrial Tribunal-II,
R/o.2nd Floor, Chandravihar Building, M.J. Road, Nampally,
Hyderabad - 3.

2 The Depot Manager,
A.P.S.R.T.C. Bus Depot; Bodhan,
Nizamabad District.

3 Two CCs to the Government Pleader for Labour, High Court

Buildings, Hyderabad. (O.U.T.)

4. Two CD copies.